

No. 497, A.]

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CHAPTER 490.

AN ACT relating to hawkers and peddlers and various other occupations and repealing chapter 67 of the statutes of 1898, entitled "Of peddlers," and chapter 341 of the laws of 1901 and chapter 393 of the laws of 1903, amendatory thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

License required. SECTION 1. No person shall engage in or follow the business or occupation of a hawker or peddler within this state without having first obtained a license for that purpose as by this act provided.

Fees. SECTION 2. Every person desiring to engage in or follow the business or occupation mentioned in the preceding section, before he shall be entitled to a license authorizing him so to do, shall pay into the state treasury an annual license fee, as follows: Where he shall use in such business or occupation a wagon or other vehicle, drawn by two or more horses, or other beasts of burden, or automobile or other vehicle or conveyance propelled by any mechanical power, the sum of seventy-five dollars; where he shall use in such business or occupation a wagon or other vehicle, drawn by one horse, or other beast of burden, the sum of forty-five dollars; where he shall use in such business or occupation a push or hand cart, or other vehicle not drawn by horses, or other beasts of burden, the sum of thirty dollars; and where he shall conduct such business on foot by means of pack, basket or other means for carrying merchandise on foot, the sum of twenty dollars.

Application, how made. SECTION 3. The application for a license as a hawker or peddler shall be made in writing to the secretary of state on blanks to be furnished by him, wherein the applicant shall specify whether he intends to carry on his business by wagon or other vehicle, or on foot. The applicant shall at or before the time of filing his application for a license, pay or cause to be paid to the state treasurer the amount prescribed in the preceding section and applicable to the manner in which such applicant intends to carry on his business, and

the treasurer shall thereupon issue to the applicant a receipt therefor.

License, how issued. SECTION 4. Upon the filing of an application for such license with the secretary of state, and the presentation to him of a receipt from the state treasurer showing the payment of the fee, as hereinbefore provided, the secretary of state shall issue to the applicant a license for a period of one year, from the date of the issuance of the receipt of the state treasurer, the full license fee to be paid in every case, which license shall be signed by the secretary of state or his assistant and every such license shall authorize the person receiving the same to use one wagon or other vehicle, drawn by two or more horses or other beasts of burden and no more, or automobile or other vehicle or conveyance propelled by mechanical power, one wagon or other vehicle drawn by one horse or other beast of burden and no more, one push or hand cart or other vehicle not drawn by horses or other beasts of burden and no more, or the baskets, packs or other means necessary for one peddler carrying (by himself) merchandise on foot, as the case may be, and such license shall not be assignable or transferable except where due notice has been given the state treasury agent and the same has received his approval.

Transient merchant defined; fee. SECTION 5. A transient merchant within the meaning of this act is defined as one who engages in the vending or sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. No person shall engage in or follow the business or occupation of a transient merchant, as hereinbefore defined, at any place in this state, without first obtaining a license authorizing him to do so. Any person desiring a license as a transient merchant shall, before receiving the same, pay into the state treasury the sum of seventy-five dollars, and he shall in addition to such amount, after receiving such license, also pay to the treasurer, of any city or village where he may be conducting his business, a sum not to exceed twenty-five dollars per day for each day that he may be engaged in carrying on his business, such amount to be determined by ordinance or resolution of such city or village; provided further, that if complaint be made to the mayor of any city, or the president of any village, that any person doing business therein is a transient merchant, and such person shall claim to be a permanent merchant, he may be re-

quired as a condition of transacting business in any such city or village, without the payment of a license fee to such city or village, to give a bond to such city or village to secure the payment of the state and local license, in the event that he fails to become a permanent merchant, under the terms of this act, in a penal sum not to exceed five hundred dollars to be determined by resolution or ordinance of such city or village, with sureties to be approved by the clerk of the municipality, and which bond shall be enforced in case of a breach thereof by the proper local officers of the city or village, and upon its collection the amount of the state license shall be paid to the state treasurer and the remainder shall be paid into the treasury of the city or village and become a part of the license fund. The application for a license as a transient merchant shall be made in writing to the secretary of state upon blanks to be furnished by him, and upon the filing of such application with the secretary of state and the presentation to him of a receipt from the state treasurer showing the payment of the license fee hereinbefore provided for, the secretary of state shall issue to such applicant a license for a period of one year, commencing on the first day of May, or for such portion of a year as may intervene between the date of the issuance of the receipt of the state treasurer and the first day of May next ensuing, the full license fee to be paid in every case, which license shall be signed by the secretary of state or his assistant, and every such license shall authorize the person receiving the same to engage in the business of a transient merchant within this state.

One person one license; penalty. SECTION 6. But one person shall be authorized to carry on business under the terms of any license herein provided for, and no persons shall conduct business under the same license as co-partners, agents or otherwise. And it shall be the duty of any person licensed as herein provided, upon the demand of the treasury agent or any of his deputies, or of any sheriff, constable or police officer to exhibit his license and make affidavit that he is the person named therein. Any person failing to exhibit his license when requested by the persons above designated, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than ten dollars nor more than twenty-five dollars, or by imprisonment in the county jail not less than fifteen days nor more than thirty days.

Local license. SECTION 7. Nothing in this act contained shall be construed as prohibiting or in any way limiting or in-

terfering with the rights of any city or village to further license hawkers, peddlers or transient merchants to trade within the corporate limits thereof where authority to do so is conferred upon them by law.

Revocation of license authorized, when. SECTION 8. Any license issued pursuant to the terms of this act may be revoked by the secretary of state upon the conviction of any person to whom the same was issued, of any fraud or false representation, misrepresentation or imposition in the sale of any goods, wares or merchandise or the sale of any adulterated food, drink or drug, or the sale of any food deleterious to health, and the filing with the secretary of state of a certified copy of the final judgment of conviction of any court in which any such person may be tried, shall be sufficient authority for the revocation of such license.

Penalty. SECTION 9. Every person who shall engage in or follow the business of a hawker, peddler or transient merchant in this state, without having first obtained a license, or shall when licensed as a transient merchant neglect or refuse to pay the per diem fee as provided by this act shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or in default of the payment of such fine, by imprisonment in the county jail of the county in which he shall have been convicted for a period not exceeding sixty days, for each offense.

Treasury agent; oath; bond. SECTION 10. The governor shall appoint a treasury agent who shall hold his office for the term of two years from the date of his appointment and until his successor shall have been appointed and duly qualified. Before entering upon the duties of his office the treasury agent shall take and subscribe the oath of office required by the constitution and give a bond to the state in the sum of five thousand dollars, with sufficient sureties to be approved by the governor, conditioned for the faithful performance of the duties of his office, and for the faithful performance of all persons employed by him of their duties and trusts, and that all moneys collected by him or his assistants, in the enforcement of the duties of his office, shall be paid into the state treasury. Said bond and oath of office shall be filed in the office of the secretary of state.

Duties of treasury agent. SECTION 11. It shall be the duty of the treasury agent to superintend and enforce the collection of all license fees required to be paid to the state under the provisions of this act or of any act relating to hawkers, peddlers or transient merchants and to perform such other duties as the secretary of state may prescribe under any other license law. It shall also be the duty of the treasury agent to report to the secretary of state the conviction of any licensee under this act, of any fraud, or false representation, misrepresentation or imposition in the sale of any goods, wares or merchandise, or the sale of any adulterated food, drink or drug, or the sale of any food deleterious to health, and to cause to be filed with the secretary of state a certified copy of the final judgment of conviction of any court in which any such person may be tried, which said certified copy shall be sufficient authority for the revocation of the license held by any such licensee. Upon receipt of any application for license or any license fees, he shall immediately file the application in the office of the secretary of state, and pay all such fees into the state treasury in the name of the applicant, and deliver or forward to such applicant his proper license, duly issued. He may appoint an assistant, who shall take a like oath and give a like bond, and may perform such duties as are required of the treasury agent, and shall report to the governor at the end of each fiscal year a statement of all the moneys received and disbursed by him, the names and postoffice addresses of the persons from whom they were collected and the amount paid by each; such report shall also give information upon any other matters relating to his duties which the governor may require.

Special agents, appointment of. SECTION 12. The treasury agent may appoint, special treasury agents, who, as well as said treasury agent and his assistant, may, when there is reasonable ground to suppose that such license fees as are required by any law to be paid into the state treasury, may become otherwise uncollectable, seize and detain any vehicle or any animals attached thereto, or any push or hand cart, or any of the goods, wares or merchandise conveyed thereby, or any trunk, box or pack, or other means of carrying goods or any of the contents therein contained, carried by foot peddlers, until the process provided by law can be issued and served. Such agent, assistant and special agents may serve any writ or process necessary to enforce the provisions of this chapter in the same manner and for the same compensation as constables and sheriffs.

Oath, bond. SECTION 13. Every such special treasury agent before entering upon the duties of his office shall take and subscribe the oath of office required by the constitution and execute to the treasury agent a bond, with sufficient sureties, in such sum as said agent shall fix, conditioned for the faithful performance of his duty, and deliver the same, with his oath of office, to the treasury agent.

Salary and compensation; blanks. SECTION 14. There shall be audited and paid to the treasury agent out of the state treasury the sum of twenty-five per cent of the amount paid into the state treasury as fees for licenses under this act or by any hawker, peddler or transient merchant, or any other license collected by said treasury agent, which sums shall be compensation in full for his services and the services of his assistant and of all special treasury agents appointed by him or his assistant, providing that the said twenty-five per cent shall not produce a net salary to the treasury agent in excess of \$2,000.00 dollars per annum, after deducting all fees paid special agents and the necessary office and traveling expenses, balance to be paid into the state treasury: but the necessary blanks and advertising for the performance of his duties shall be furnished by the state.

Circuses and exhibitions, license of. SECTION 15. Every owner, manager or agent of a caravan, circus or menagerie, before he shall be allowed to exhibit the same in this state, shall procure a state license as a public showman by making application in writing to the secretary of state, which application shall state in detail the manner in which he intends to travel and the nature and character of his exhibition, and shall pay in to the treasury therefor the sum of one hundred dollars; and every owner or manager of a so called side show, traveling vaudeville, ferris-wheel, merry-go-round, ocean wave or transient shooting gallery, and every person exhibiting for money any trained animal, wild animal or any object of curiosity shall procure a state license as a public showman and pay therefor twenty dollars: provided, that such persons, owners or agents shall not be required to pay such license fee if they shall state in their application that they apply for the license solely for the purpose of exhibiting at, during the continuance and on the grounds of annual county, district or state fair associations drawing aid from the state under the provisions of sections 1458c, 1458d, 1463 of the statutes of 1898, chapter 356 of the laws of 1901, chapter 337 of the laws of 1901 and chapter 290 of the laws of 1903.

Fire sale merchants, license of. SECTION 16. Every person, firm or corporation which shall not have become a permanent merchant or dealer in the town, city or village in which any such person, firm or corporation sells or exposes for sale any goods, wares or merchandise and which shall advertise, represent and hold forth that the sale thereof is an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver, job lot or closing out sale, or a sale of goods, wares or merchandise damaged by smoke, fire, water or otherwise, or that by reason of financial difficulty or other special or peculiar circumstances such goods, wares or merchandise will be disposed of for less than their real value, shall, before commencing or advertising a sale thereof, procure a state and local license in the manner hereinafter provided; but nothing in this or the five sections next following shall affect the right of any town, city or village to adopt such resolutions, orders or ordinances relating to such sales and the advertisement thereof as are authorized by law; provided, that nothing in said sections shall apply to any sale made by virtue of any judgment, order or process of any court, or pursuant to any law of this state or of the United States or in enforcement of any contract right or lien.

Application, how made; fire sale merchants. SECTION 17. The application for a state license under the preceding section shall be made to the secretary of state under oath, shall disclose the name and residence of the applicant, who shall, before making such sale advertising so to do, state in his original or supplementary application the details concerning such sale, including all the facts relating to the insurance, bankruptcy, insolvency, or other reason for making the same, with sufficient fullness as to time, place and persons to permit the verification thereof. Such statement shall be copied on the license issued by said secretary of state, and all applications shall be filed by him and a record of all licenses issued be made. All files and records of the secretary of state and of the town, city and village clerks shall be in convenient form and be open for public inspection. Any false statement in either such application or any failure of any licensee to comply with all the requirements of this section shall render him liable to the same penalty as is imposed by section 21 of this act.

Fee; penalty. SECTION 18. Upon application in proper form and the payment of seventy-five dollars as a fee the secretary of state shall issue to the applicant a license authorizing him

to advertise and make such sales as are specified in section 16 of this act for the term of one year, commencing on the first day of May, or for such portion of a year as may intervene between the date of the issuance of the receipt of the state treasurer and the first day of May next ensuing, the full license fee to be paid in every case, unless such license be sooner surrendered for cancellation. Every license shall contain a copy of the application therefor. Such license shall not be transferable nor authorize more than one person, firm or corporation to sell or advertise goods, wares or merchandise in the manner specified, either by agent or clerk or in any other way than in the proper person of the licensee, except that when the licensee is a firm or corporation the sale may be conducted by the members of the partnership or the officers of the corporation, and any licensee may have the assistance of one or more persons, who shall not, however, have authority to act for him in his absence. Any agent or employee who conducts or advertises a sale for his principal shall be liable to the penalty hereinafter prescribed if such principal has failed to comply with any of the provisions of law.

Local license fee. SECTION 19. Any town board, village board or common council may, by resolution, ordinance or order, require the payment by every person, firm or corporation intending to make such sale a per diem license fee not exceeding twenty-five dollars. Before making or offering to make any such sale under the state license every such person, firm or corporation shall exhibit said license to the clerk of the town, city or village where it is proposed to make sales, and upon payment to said clerk of such fee as is required by the local authorities, he shall record the state license, indorse upon it the words "local license fees paid," affix his official signature with the date of such indorsement, and issue a license authorizing sales within the limits of his town, city or village. Making sales or offering to do so without such license or indorsement shall subject such person to the same penalty as he would be liable to if no state license had been issued.

Prosecutions. SECTION 20. The district attorney of each county shall prosecute all violations of any of the provisions of sections 16, 17, 18 and 19 of this act and may demand from any person making any such sale or advertising to do so, the production of his state and local license; and any failure to produce the same shall be prima facie evidence that no such license has been obtained.

Penalty. SECTION 21. Every person violating any provision of either of sections 16, 17, 18, 19 and 20 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars or be imprisoned in the county jail not less than thirty days nor more than sixty days or by both such fine and imprisonment; and each advertisement or sale made in contravention of the provisions of said sections shall be deemed a distinct offense and shall subject the offender to such punishment.

Local rates and regulations authorized. SECTION 22. The supervisors of the several towns in this state containing villages not incorporated and the trustees of incorporated villages are hereby authorized and shall have power to establish rates for and license and regulate the traffic of all peddlers endeavoring to procure the sale of any goods, wares or merchandise of whatever description, by putting up booths or stalls or stopping with their vehicles or other conveyances in any of the streets, alleys, public squares or vacant lots within and near the limits of any of said villages, which shall be designated and determined by said supervisors or trustees, as the case may be, during any days of public assemblages held therein, such as county or monthly cattle fairs, election or town meeting days, not to exceed twenty days in any year.

Local licenses, time of. SECTION 23. The license or permit provided for in the preceding section shall be good only for the day or days designated therein, and may be issued by the town or village clerk, as the case may be, by and under the direction and regulations of the supervisors of such towns or the trustees of such incorporated villages as may have adopted the same under the preceding section.

Penalty. SECTION 24. Whenever the supervisors of any town or the trustees of any incorporated village shall have adopted the system provided for in section 22 of this act by resolution or otherwise, any person violating the provisions of said section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars or be imprisoned in the county jail not less than thirty days nor more than sixty days; provided, however, that the provisions of this and the two preceding sections shall in no way affect existing laws regulating agricultural societies.

Conflicting laws repealed. SECTION 25. Chapter 67 of the statutes of 1898, and chapter 341 of the laws of 1901 and chapter 393 of the laws of 1903, and all acts or parts of acts contravening in any way the provisions of this act are hereby repealed.

SECTION 26. This act shall take effect and be in force from and after the fifteenth day of July, 1905.

Approved June 20, 1905.

No. 560, S.]

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CHAPTER 491.

AN ACT authorizing the increase of the height of a dam across the Black river.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Increase of height authorized. SECTION 1. The city of Black River Falls, and James J. McGillivray, the successors and assigns of Jacob Spaulding, to whom was granted a franchise by chapter 208 private and local laws of Wisconsin for 1853, their heirs, associates, successors and assigns, are hereby authorized to increase the height of the dam now built and owned and maintained by them across Black river, on the east half of the south east quarter of section 15, township 21, north of range 4, west of the fourth principal meridian, in Jackson county, by virtue of chapter 208, private and local laws of Wisconsin for 1853, from eleven to fifteen feet from the water mark.

Fishway. SECTION 2. The dam erected under the authority hereby granted shall be provided with a good and sufficient fishway to be approved by the state board of commissioners of fisheries, and said fishway shall at all times be kept in good repair and open for the free and easy passage of fish up and down said river.